

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5190 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SHIVAJI MULJI DORU

Versus

STATE OF GUJARAT & ANR.

Appearance:

MR JT TRIVEDI for Petitioner

MR MUKESH PATEL for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/09/96

ORAL JUDGMENT

Heard learned counsel for the parties. The petitioner, a junior clerk in the police department, Government of Gujarat, filed this petition before this Court and prayed therein for directions to the respondent to give him deemed date of promotion from 25th March 1982 on the post of Senior Clerk.

2. The petitioner was appointed in the year 1976 on

the post of Junior Clerk. It is also not in dispute that pre service training examination was passed by the petitioner in the year 1979 and departmental examination for the post of Junior Clerk in the year 1981. Rule 4 of the Gujarat Police Department (Conditions of Service relating to Junior Clerks and Senior Clerks' examination) Rules 1972, provides that in order to be eligible for promotion to the post of Senior Clerk a Junior Clerk recruited on or after the appointed date shall have to pass Senior Clerks' examination within a period of six years from the date of his appointment as a Junior Clerk. The proviso further provides that a Junior Clerk recruited on or after appointed date shall not be eligible to appear at the Senior Clerks' examination until he has completed three years' service as a Junior Clerk and has also passed Junior Clerks' examination. The petitioner passed the Junior Clerks' examination in the year 1981 and as such, earlier to August 1981, there was no question of his promotion to the post of Senior Clerk. Passing of the Junior Clerk examination was one of the eligibility for promotion. The petitioner passed the departmental examination for Senior Clerks in the month of May 1983. So he acquired the eligibility for promotion only in the month of May 1983. The claim of the petitioner for promotion from 25th March 1982 is also not tenable on this ground. The petitioner has also raised a plea of discrimination that many of the Junior Clerks were allowed to appear in the Senior Clerks' departmental examination before they have completed three years' service and before becoming eligible to appear in the said examination. This plea is also not tenable for the reason that the petitioner has not given out the details of those persons and secondly even if in other cases, the respondent has committed some illegality then that will not give any right to the petitioner to make a plea of discrimination. In case the persons not eligible have appeared in the Senior Clerks' examination, then this Court will not ask the respondent to repeat the same illegality in the case of the petitioner. The petitioner has passed pre services training in the year August 1979 and as such, he acquired the eligibility to appear in the Senior Clerks' examination only in the year August 1982. Thereafter promotion has to be given subject to availability of the post. Moreover, the petitioner has not come up with the case that any person Junior to him has been given promotion earlier to him.

3. Taking into consideration totality of the facts of the case, I do not find any substance in this Special Civil Application and the same is dismissed. Rule is discharged. No order as to costs.

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(sunil)